

Exhibit L

In the Matter Of:

15-cv- 7152 (JMA) (ARL)

NAFTALI AS TRUSTEES OF THE EDTOM TRUST

v.

NEW YORK DEFERRED EXCHANGE CORP., et al.

Deposition of Jeffrey Wechsler

Thursday, September 5, 2019

CONDENSED



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<p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK -----X ORA NAFTALI AND RONI NAFTALI, AS TRUSTEES OF THE EDTOM TRUST, Civil Action Plaintiffs, No. 15-cv-7152 - v - (JMA) (ARL) NEW YORK DEFERRED EXCHANGE CORP., AND JEFFREY L. WECHSLER Defendants. -----X NEW YORK DEFERRED EXCHANGE CORP., Counterclaim Plaintiff, - v - ORA NAFTALI AND RONI NAFTALI, AS TRUSTEES OF THE EDTOM TRUST, Counterclaim Defendants. -----X NEW YORK DEFERRED EXCHANGE CORP., Third-Party Plaintiff, - v - ORA NAFTALI AND RONI NAFTALI, Third-Party Defendants. -----X September 5, 2019 10:19 a.m. DEPOSITION OF JEFFREY L. WECHSLER Reported by: Elizabeth Santamaria</p>	<p>2 1 2 -----X 3 ORA NAFTALI AND RONI NAFTALI, 4 Third-Party Counterclaim Plaintiffs, 5 - v - 6 NEW YORK DEFERRED EXCHANGE CORP., 7 Third-Party Counterclaim Defendants. 8 -----X 9 ORA NAFTALI AND RONI NAFTALI, 10 Third-Party Cross-Claim Plaintiffs, 11 - v - 12 JEFFREY L. WECHSLER, 13 Third-Party Cross-Claim Defendants. 14 -----X 15 JEFFREY L. WECHSLER, 16 17 Third-Party Plaintiff, 18 - v - 19 JOSEPH TAPLITZKY, 20 Third-Party Defendant. 21 -----X 22 23 September 5, 2019 24 10:19 a.m. 25 Deposition of JEFFREY L. WECHSLER, pursuant to Order, at the offices of MILBER MAKRIS PLOUSADIS SEIDEN, 1000 Woodbury Road, Woodbury, New York, before Elizabeth Santamaria, a Reporter and Notary Public of</p>
<p>3 1 2 A P P E A R A N C E S: 3 4 KISHNER MILLER HIMES P.C. 5 Attorneys for Plaintiffs/Counterclaim Defendant 6 Ora Naftali and Roni Naftali 7 40 Fulton Street - 12th Floor 8 New York, New York 9 BY: JONATHAN COHEN, ESQ. 10 (212) 585-3425 11 Email: Jcohen@kishnerlegal.com 12 13 MILBER MAKRIS PLOUSADIS SEIDEN 14 Attorneys for Third-Party Cross-Claim Defendant 15 Jeffrey L. Wechsler 16 1000 Woodbury Road - Suite 402 17 Woodbury, New York 11797 18 BY: JOHN ANTHONY LENTINELLO, ESQ. 19 (516) 712-4000 20 Email: Jlentinello@milbermakris.com 21 22 23 24 25</p>	<p>4 1 2 A P P E A R A N C E S (c o n t'd): 3 HINSHAW & CULBERTSON LLP 4 Attorneys for Defendant and 5 Counterclaim Plaintiff/ 6 Third-Party Plaintiff/ 7 Third-Party Counterclaim Defendant 8 New York Deferred Exchange Corp. 9 800 Third Avenue - 13th Floor 10 New York, New York 10022 11 BY: MATTHEW C. FERLAZZO, ESQ. 12 SUZANNE WALSH, ESQ. 13 (212) 471-6200 14 Email: Mferlazzo@hinshawlaw.com 15 Email: Swalsh@hinshawlaw.com 16 17 ORLOFF LOWENBACH STIFELMAN & SIEGEL, PA 18 Attorneys for Third-Party Defendant 19 Joseph Taplitzky 20 44 Whippany Road - Suite 100 21 Morristown, New Jersey 07960 22 BY: MARC C. SINGER, ESQ. 23 (973) 622-6200 X423 24 Email: Mcs@olss.com 25</p>

<p style="text-align: right;">69</p> <p>1 J. Wechsler</p> <p>2 Q. Did you speak to the buyer's</p> <p>3 counsel about FIRPTA withholding?</p> <p>4 A. Possibly.</p> <p>5 Q. But you don't remember</p> <p>6 specifically?</p> <p>7 A. Correct.</p> <p>8 Q. Did you speak to the buyer's</p> <p>9 counsel about the seller possibly utilizing a</p> <p>10 1031 exchange?</p> <p>11 A. Possibly.</p> <p>12 Q. Did you issue check instructions to</p> <p>13 the buyer's counsel?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall who you requested the</p> <p>16 sale proceeds be made payable to?</p> <p>17 A. There were numerous checks that</p> <p>18 would have been issued.</p> <p>19 Q. Would checks be made issued to the</p> <p>20 Edtom Trust?</p> <p>21 A. There would have been checks to</p> <p>22 them. The checks to pay off the bank, checks</p> <p>23 to others.</p> <p>24 Q. What about to a 1031 exchange</p> <p>25 company?</p>	<p style="text-align: right;">70</p> <p>1 J. Wechsler</p> <p>2 A. If we were doing a 1031, yes.</p> <p>3 Q. Were you doing a 1031 prior to the</p> <p>4 date of the closing?</p> <p>5 A. Prior to the date --</p> <p>6 MR. SEIDEN: Objection to form.</p> <p>7 Go ahead.</p> <p>8 A. You don't do a 1031 prior to the</p> <p>9 date, you do it at the date of the closing.</p> <p>10 Q. Were you planning -- were you</p> <p>11 planning to -- sorry, withdrawn.</p> <p>12 Were the Naftalis planning to</p> <p>13 perform a 1031 exchange as part of this</p> <p>14 transaction prior to the closing?</p> <p>15 A. At the closing.</p> <p>16 Q. Did you discuss it with them prior</p> <p>17 to the closing, about utilizing the services</p> <p>18 of a 1031 exchange company?</p> <p>19 A. At the closing.</p> <p>20 Q. You only discussed it at the</p> <p>21 closing?</p> <p>22 A. Correct.</p> <p>23 Q. You never discussed it with them</p> <p>24 prior to the closing?</p> <p>25 A. Possibly, but I don't recall.</p>
<p style="text-align: right;">71</p> <p>1 J. Wechsler</p> <p>2 Q. What documents did you prepare for</p> <p>3 the closing?</p> <p>4 A. It was in my closing binder,</p> <p>5 whatever I prepared. You have my closing</p> <p>6 binder.</p> <p>7 Q. Did you prepare a FIRPTA affidavit?</p> <p>8 A. Yes.</p> <p>9 Q. You prepared a FIRPTA affidavit?</p> <p>10 A. I believe there would have been one</p> <p>11 in my closing binder. Can we pull my closing</p> <p>12 binder? I have to see the closing binder.</p> <p>13 Q. Did you advise the client to obtain</p> <p>14 a tax withholding certificate -- withdrawn.</p> <p>15 MR. COHEN: I will take that back.</p> <p>16 Thank you.</p> <p>17 (Witness handing document.)</p> <p>18 Q. I would like to focus your</p> <p>19 attention to the day of the closing on the</p> <p>20 sale of the trust's property. Where did the</p> <p>21 closing take place?</p> <p>22 A. Corcoran offices, C-O-R-C-O-R-A-N.</p> <p>23 Q. What time did it start?</p> <p>24 A. I don't recall the time. It was at</p> <p>25 their office, 660 Madison.</p>	<p style="text-align: right;">72</p> <p>1 J. Wechsler</p> <p>2 Q. Did the closing start in the</p> <p>3 morning?</p> <p>4 A. I don't recall the exact time that</p> <p>5 the closing occurred.</p> <p>6 Q. Was the closing the first time you</p> <p>7 met the Naftalis in person?</p> <p>8 A. Yes.</p> <p>9 Q. Was there any discussion about the</p> <p>10 Naftalis closing via power of attorney?</p> <p>11 A. Possibly.</p> <p>12 Q. Do you remember discussing it with</p> <p>13 the Naftalis that they could close via power</p> <p>14 of attorney?</p> <p>15 A. Possibly.</p> <p>16 Q. Who was at the closing?</p> <p>17 A. Ora Naftali, Roni Naftali. George</p> <p>18 Bunn, his client was not there. There was a</p> <p>19 title closer, I don't recall the title</p> <p>20 closer's name. And Joseph Taplitzky. And</p> <p>21 there might have been another broker, I don't</p> <p>22 recall.</p> <p>23 Q. Anybody else?</p> <p>24 A. Not that I'm aware of.</p> <p>25 MR. SEIDEN: Other than</p>

18 (Pages 69 to 72)

<p style="text-align: right;">73</p> <p>1 J. Wechsler</p> <p>2 Mr. Wechsler.</p> <p>3 A. And myself. Sorry.</p> <p>4 Q. Who did you sit next to at the</p> <p>5 closing?</p> <p>6 A. Normally I sit next to my clients.</p> <p>7 Q. Did you sit next to Ora and Roni</p> <p>8 Naftali at the closing table for this</p> <p>9 transaction?</p> <p>10 A. One of them would have sat next to</p> <p>11 me. Usually husband and wife sit next to each</p> <p>12 other and I sit next to one of them.</p> <p>13 Q. Do you remember if you sat next to</p> <p>14 Ora Naftali?</p> <p>15 A. No. Whether it was Ora or Roni</p> <p>16 Naftali, I sat next to one of them.</p> <p>17 Q. You don't remember which one?</p> <p>18 A. I don't see the relevance, but</p> <p>19 anyway...</p> <p>20 Q. Let me worry about the relevance.</p> <p>21 I'm asking the questions.</p> <p>22 Do you remember --</p> <p>23 A. I sat in the conference room to do</p> <p>24 a closing and I sat next to one of my clients.</p> <p>25 Whether it was Roni or Ora that I sat next to,</p>	<p style="text-align: right;">74</p> <p>1 J. Wechsler</p> <p>2 I don't know.</p> <p>3 Q. Do you remember where Joseph</p> <p>4 Taplitzky was sitting?</p> <p>5 A. No.</p> <p>6 Q. Was he sitting next to Ora Naftali?</p> <p>7 A. I don't recall where he was</p> <p>8 sitting, I don't recall where Ora was sitting.</p> <p>9 Q. How did the closing proceed?</p> <p>10 A. Well.</p> <p>11 Q. What did you discuss with the</p> <p>12 buyer's counsel?</p> <p>13 A. Be more specific.</p> <p>14 Q. During the closing did you have any</p> <p>15 conversations with the buyer's counsel?</p> <p>16 A. It was a normal transaction.</p> <p>17 Q. What did you discuss with him?</p> <p>18 A. We were discussing the transaction.</p> <p>19 Q. Did you discuss the FIRPTA tax</p> <p>20 withholding?</p> <p>21 A. We had the FIRPTA form on the</p> <p>22 table.</p> <p>23 Q. That you prepared?</p> <p>24 A. That Naftalis signed.</p> <p>25 Q. The Naftalis signed a FIRPTA form</p>
<p style="text-align: right;">75</p> <p>1 J. Wechsler</p> <p>2 at the closing table?</p> <p>3 A. If it was in my closing binder.</p> <p>4 Can I look at my closing binder?</p> <p>5 Q. I'm asking you if they signed a</p> <p>6 FIRPTA form.</p> <p>7 A. I believe, and I said I believe so.</p> <p>8 Q. You said they did?</p> <p>9 A. I believe they signed a FIRPTA</p> <p>10 form.</p> <p>11 Q. Did you prepare a FIRPTA form --</p> <p>12 FIRPTA affidavit for this transaction?</p> <p>13 A. And I said I believe so.</p> <p>14 Q. Did you discuss with the buyer's</p> <p>15 counsel about a 1031 exchange being part of</p> <p>16 this transaction?</p> <p>17 A. At this transaction Joseph brought</p> <p>18 up the 1031 discussion at the closing, Joseph</p> <p>19 Taplitzky, to the Naftalis.</p> <p>20 Q. What did he say to the Naftalis?</p> <p>21 A. He brought up the idea of doing it.</p> <p>22 I explained how the transaction of a 1031</p> <p>23 works, and then what happened was subsequently</p> <p>24 like they decided to go forward to do a 1031.</p> <p>25 They agreed at the closing to do the 1031.</p>	<p style="text-align: right;">76</p> <p>1 J. Wechsler</p> <p>2 Q. When you say they agreed, what do</p> <p>3 you mean?</p> <p>4 A. They decided they wanted to save</p> <p>5 the taxes and so they said they wanted to do</p> <p>6 the 1031. So that was in -- that was</p> <p>7 specifically -- even Roni said that in his</p> <p>8 testimony at his deposition.</p> <p>9 Q. When during the closing -- was it</p> <p>10 towards the beginning, middle, the end -- did</p> <p>11 Joseph bring up, as you say, using a 1031</p> <p>12 exchange?</p> <p>13 A. I don't remember when the</p> <p>14 conversation occurred but the conversation</p> <p>15 occurred, we discussed it.</p> <p>16 They decided to do that, then they</p> <p>17 gave me back the checks. I spoke to Fritz to</p> <p>18 make sure it can be done because we were in</p> <p>19 the middle of a closing and we had to get</p> <p>20 everything done the same day.</p> <p>21 Q. Did you advise the clients to sign</p> <p>22 certain documents at the closing?</p> <p>23 MR. SEIDEN: Objection to form.</p> <p>24 A. There is always documents signed at</p> <p>25 a closing.</p>

19 (Pages 73 to 76)

<p style="text-align: right;">77</p> <p>1 J. Wechsler</p> <p>2 Q. Did you advise them to sign</p> <p>3 transfer tax returns?</p> <p>4 A. Correct.</p> <p>5 Q. How did the Naftalis know where to</p> <p>6 sign their names on the transfer tax returns</p> <p>7 for this transaction?</p> <p>8 A. I would have indicated where they</p> <p>9 would sign.</p> <p>10 MR. COHEN: I would like to mark</p> <p>11 Plaintiffs' Exhibit F. It starts with</p> <p>12 Bates stamp number JLW000065 and ends</p> <p>13 with JLW000083.</p> <p>14 (Plaintiffs' Exhibit F, pages Bates</p> <p>15 stamped JLW000065 to JLW000083, marked for</p> <p>16 identification, as of this date.)</p> <p>17 Q. If you would review the document in</p> <p>18 front of you, Mr. Wechsler, and let me know</p> <p>19 when you are ready for questions.</p> <p>20 A. Ready.</p> <p>21 Q. Did you prepare these transfer tax</p> <p>22 returns?</p> <p>23 A. I stated earlier I have an abstract</p> <p>24 company that would prepare it.</p> <p>25 Q. At your direction?</p>	<p style="text-align: right;">78</p> <p>1 J. Wechsler</p> <p>2 A. Yes.</p> <p>3 Q. Why didn't you prepare them</p> <p>4 yourself?</p> <p>5 A. Because the abstract company</p> <p>6 charges like \$150 to prepare them, and did you</p> <p>7 ever prepare ACRIS documents? It's</p> <p>8 cumbersome. It's easier to have a</p> <p>9 professional that's used to doing it.</p> <p>10 Q. Did you review them prior to the</p> <p>11 closing table?</p> <p>12 A. Yes.</p> <p>13 Q. Did you identify any mistakes?</p> <p>14 A. At the time, prior to the closing</p> <p>15 table?</p> <p>16 Q. When you reviewed it, did you</p> <p>17 identify any mistakes?</p> <p>18 A. At the time?</p> <p>19 Q. At the time.</p> <p>20 A. No.</p> <p>21 Q. Did you ask them to make any</p> <p>22 changes to the transfer tax returns when they</p> <p>23 prepared them for you?</p> <p>24 A. "They" being?</p> <p>25 Q. The abstract company.</p>
<p style="text-align: right;">79</p> <p>1 J. Wechsler</p> <p>2 A. No. We needed a -- we needed the</p> <p>3 tax ID numbers, which I was always told I was</p> <p>4 going to be getting.</p> <p>5 Q. I would draw your attention to the</p> <p>6 second page of this exhibit, Bates stamp</p> <p>7 number JLW000066.</p> <p>8 If you look towards the top where</p> <p>9 it says "Social Security number," below it</p> <p>10 it has a series of 9s. Do you see that?</p> <p>11 A. Sure. Yes.</p> <p>12 Q. Did anyone comment on the fact that</p> <p>13 the seller's Social Security number was listed</p> <p>14 as all 9s during the closing?</p> <p>15 A. During the closing I don't recall</p> <p>16 but I know that what happens is when the</p> <p>17 abstract companies prepare these, if they</p> <p>18 don't have it they just put in 9s and fill in</p> <p>19 later.</p> <p>20 Again, I mentioned to you that I</p> <p>21 asked Roni and Ora for tax ID numbers, which</p> <p>22 they always said they had, and I was hoping to</p> <p>23 get the tax ID numbers.</p> <p>24 Q. Did you ask Ora Naftali at the</p> <p>25 closing table for the tax ID number?</p>	<p style="text-align: right;">80</p> <p>1 J. Wechsler</p> <p>2 A. Correct.</p> <p>3 Q. I'm asking you, you did?</p> <p>4 A. That was a "yes."</p> <p>5 Q. At the closing table --</p> <p>6 A. I would have asked for the tax ID</p> <p>7 numbers because I needed the tax ID numbers.</p> <p>8 It was only subsequent to asking that I</p> <p>9 finally learned that they did not have tax ID</p> <p>10 numbers, and then I -- then they then asked me</p> <p>11 to apply for tax ID numbers.</p> <p>12 Q. Did anybody else comment on the</p> <p>13 fact that what was listed here is a series of</p> <p>14 9s?</p> <p>15 A. Again, so when you point to "here"</p> <p>16 you're referring to the New York City RPT</p> <p>17 form, the security number filled in with all</p> <p>18 9s on page 1 of the RPT. I don't recall who</p> <p>19 would have made a comment, but most likely</p> <p>20 yes.</p> <p>21 Q. If you could turn to the page Bates</p> <p>22 stamp numbered JLW000078.</p> <p>23 A. Yes.</p> <p>24 Q. Did you direct the Naftalis to sign</p> <p>25 their names underneath the certification of</p>

20 (Pages 77 to 80)

<p style="text-align: right;">81</p> <p>1 J. Wechsler</p> <p>2 resident transferor/seller?</p> <p>3 A. The answer would be yes, because</p> <p>4 basically that's a certification of resident</p> <p>5 transferor and at that time I was under the</p> <p>6 understanding and belief that they were a</p> <p>7 resident of 43-UI in the same building for</p> <p>8 which we were selling 42-UI. So they signed</p> <p>9 this page 78 and page 79 also.</p> <p>10 Q. It was your understanding that they</p> <p>11 lived in the condominium they were selling?</p> <p>12 A. No, I didn't say that. What I</p> <p>13 stated just now is that -- do you want to read</p> <p>14 it back or should I?</p> <p>15 I stated that they resided in 43-UI</p> <p>16 and that we were selling 42-UI. On page 1 of</p> <p>17 the tax return -- transfer tax forms, we have</p> <p>18 their address being unit 43-UI at 322 West</p> <p>19 57th Street. I was told that was their</p> <p>20 address.</p> <p>21 Q. Who told you that was their</p> <p>22 address?</p> <p>23 A. I would have learned that either</p> <p>24 from the Naftalis or their agent, Joseph</p> <p>25 Taplitzky.</p>	<p style="text-align: right;">82</p> <p>1 J. Wechsler</p> <p>2 Q. When did they tell you that?</p> <p>3 A. Prior to me having the abstract</p> <p>4 company write this form. I wouldn't have</p> <p>5 guessed that address.</p> <p>6 Q. Did they send it to you in an</p> <p>7 e-mail?</p> <p>8 A. I don't recall if it was an e-mail</p> <p>9 or a telephone call. That's why you're</p> <p>10 referring to this page, certification of being</p> <p>11 a New York State resident.</p> <p>12 When I did this form, I was under</p> <p>13 the understanding and belief because they had</p> <p>14 43-UI that they were a New York state resident</p> <p>15 at that time.</p> <p>16 Q. Did you see their photo IDs at the</p> <p>17 closing?</p> <p>18 A. Yes.</p> <p>19 Q. What type of ID did they provide?</p> <p>20 A. I believe it was Israeli passports</p> <p>21 at that time.</p> <p>22 Q. Did you think then that the</p> <p>23 Naftalis were Israeli citizens?</p> <p>24 A. Possibly at that time. I know</p> <p>25 people that have dual citizenships.</p>
<p style="text-align: right;">83</p> <p>1 J. Wechsler</p> <p>2 Q. Did that change your understanding</p> <p>3 of the nature of the trust?</p> <p>4 A. Of the nature of the trust at the</p> <p>5 time in October of 2014, no, because I was</p> <p>6 under the understanding and belief that the</p> <p>7 trust was a New York trust, New York state</p> <p>8 trust, as I stated earlier.</p> <p>9 Q. Did you advise the Naftalis to</p> <p>10 issue a FIRPTA affidavit at the closing?</p> <p>11 MR. SEIDEN: Objection to form.</p> <p>12 A. Okay. We previously discussed that</p> <p>13 and I previously answered that. And I ask,</p> <p>14 can I see my closing binder? Because I</p> <p>15 believe the answer would be yes, if I could</p> <p>16 look at my closing binder. May I look at it?</p> <p>17 Q. I don't know what you mean by</p> <p>18 "closing binder."</p> <p>19 A. You should know because you would</p> <p>20 have a copy of the closing binder.</p> <p>21 Q. I have the documents that are in</p> <p>22 front of you. If you don't remember, you</p> <p>23 don't remember. I am asking you the question.</p> <p>24 You are asking me to show you a document.</p> <p>25 MR. SEIDEN: He says he needs to</p>	<p style="text-align: right;">84</p> <p>1 J. Wechsler</p> <p>2 review a document in order to refresh his</p> <p>3 recollection.</p> <p>4 A. Do you want me to pull the</p> <p>5 document?</p> <p>6 Q. No, that's fine.</p> <p>7 A. But your firm has the closing</p> <p>8 binder.</p> <p>9 Q. Okay. What else did the Naftalis</p> <p>10 talk about at the closing table?</p> <p>11 A. They were extremely pleasant.</p> <p>12 There was pleasantries passed back and forth.</p> <p>13 It was a very positive atmosphere.</p> <p>14 They were excited about the sale,</p> <p>15 they were excited about the opportunity to do</p> <p>16 the 1031, roll over the money, not pay tax on</p> <p>17 any gain. Other than that, the little</p> <p>18 pleasantries specifically I don't recall.</p> <p>19 Q. Do you remember them speaking to</p> <p>20 each other in Hebrew?</p> <p>21 A. Possibly.</p> <p>22 All their conversations with me</p> <p>23 were in English on the telephone. All e-mails</p> <p>24 with me are in English. I don't speak</p> <p>25 conversational Hebrew.</p>

21 (Pages 81 to 84)

<p style="text-align: right;">85</p> <p>1 J. Wechsler</p> <p>2 Q. Do you speak a little bit of</p> <p>3 Hebrew?</p> <p>4 A. I can daven barely, D-A-V-E-N, but</p> <p>5 no conversational Hebrew.</p> <p>6 Q. So you testified earlier that</p> <p>7 Joseph Taplitzky brought on for the first time</p> <p>8 the Naftalis using a 1031 exchange, correct?</p> <p>9 A. In the closing table, yes.</p> <p>10 Q. At the closing table?</p> <p>11 A. True.</p> <p>12 Q. Did Joseph Taplitzky bring it up to</p> <p>13 you at any point prior to the closing table</p> <p>14 that the Naftalis would like to use a 1031</p> <p>15 exchange?</p> <p>16 A. Possibly. I don't recall.</p> <p>17 Q. Who asked you whether the Naftalis</p> <p>18 could utilize a 1031 exchange as part of this</p> <p>19 transaction?</p> <p>20 MR. SEIDEN: At the closing table?</p> <p>21 MR. COHEN: At the closing table.</p> <p>22 A. Joseph brought it up, then I</p> <p>23 discussed it with Joseph, Ora and Roni</p> <p>24 Naftali.</p> <p>25 Q. What did you say?</p>	<p style="text-align: right;">86</p> <p>1 J. Wechsler</p> <p>2 A. Well, basically they advised me it</p> <p>3 was investment property that was a rental</p> <p>4 real estate property, and which I had already</p> <p>5 known because I had a copy of the lease.</p> <p>6 So basically I knew it was a rental</p> <p>7 property so it was used for business purposes</p> <p>8 so it qualified and at that time then we could</p> <p>9 do a 1031. I called Fritz to make sure we</p> <p>10 could do the 1031 because we were sitting at</p> <p>11 the closing table.</p> <p>12 Q. When you had the conversation about</p> <p>13 the 1031 exchange with Joseph and the Naftalis</p> <p>14 were checks already made payable to the trust?</p> <p>15 A. Yes, correct.</p> <p>16 Q. What else did you explain to the</p> <p>17 Naftalis about a 1031 exchange at the closing</p> <p>18 table?</p> <p>19 A. The process of identifying the</p> <p>20 property, the process of what would be done</p> <p>21 with the proceeds, that the proceeds instead</p> <p>22 of going to the Edtom Trust would go to the</p> <p>23 exchanger, the 1031 exchange company, and it</p> <p>24 would sit there until the time that you close</p> <p>25 on the subsequent property.</p>
<p style="text-align: right;">87</p> <p>1 J. Wechsler</p> <p>2 So I explained that all to them and</p> <p>3 I explained to them about then they could --</p> <p>4 it's not that you don't pay income tax.</p> <p>5 That's a misnomer. It's you're basically</p> <p>6 deferring payment of a tax obligation to</p> <p>7 New York State and the IRS. You're not paying</p> <p>8 the tax on the gain at this juncture.</p> <p>9 Q. And you advised them that they</p> <p>10 could still perform a 1031 exchange at that</p> <p>11 time?</p> <p>12 A. Yes. Because what I did, I just</p> <p>13 told you, I called Fritz from NYDEC -- who is</p> <p>14 amazing -- and he said, "Yes, you could still</p> <p>15 perform this," correct.</p> <p>16 Q. Before calling Fritz, did you tell</p> <p>17 them they could perform a 1031 exchange at the</p> <p>18 closing?</p> <p>19 A. I said I needed to check with Fritz</p> <p>20 from NYDEC. So I confirmed with him that I</p> <p>21 could still do it.</p> <p>22 Q. Why did you need to check with</p> <p>23 Fritz?</p> <p>24 A. Because we're sitting at a closing</p> <p>25 table. I didn't have the exchange forms. I</p>	<p style="text-align: right;">88</p> <p>1 J. Wechsler</p> <p>2 didn't have anything that I would normally</p> <p>3 prepare to do a 1031. Fritz's office</p> <p>4 prepares -- the NYDEC prepares all these forms</p> <p>5 that I need that are in the closing binder, of</p> <p>6 which you have a copy.</p> <p>7 Q. Did you have any reason to believe</p> <p>8 that it was no longer possible to utilize a</p> <p>9 1031 exchange as part of the sale transaction?</p> <p>10 MR. SEIDEN: Objection to form.</p> <p>11 A. Hence my phone call to Fritz to</p> <p>12 confirm if I could do it or not, okay? So he</p> <p>13 said that I could do it.</p> <p>14 And it's an irrelevant question</p> <p>15 because they didn't go forward even though</p> <p>16 they identified a property, which was in their</p> <p>17 depositions. When they gave the deposition,</p> <p>18 they did have -- identify property. They</p> <p>19 chose not to move forward.</p> <p>20 So the whole question that you're</p> <p>21 giving me about a 1031 is totally irrelevant</p> <p>22 today because they chose not to go forward.</p> <p>23 That means that then we did have to pay the</p> <p>24 tax and the taxes had to be paid on a timely</p> <p>25 basis. The taxes were sent in on April of</p>

22 (Pages 85 to 88)

<p style="text-align: right;">89</p> <p>1 J. Wechsler</p> <p>2 2015 -- April 15th of 2015 to avoid penalty.</p> <p>3 So the relevance of the 1031,</p> <p>4 whether the checks were down on the table or</p> <p>5 picked or the form was done, everything was</p> <p>6 done that business day. So everything was</p> <p>7 done on October 10, 2014.</p> <p>8 So the questions about the 1031 at</p> <p>9 this point don't matter because they decided</p> <p>10 not to go forward after they identified a</p> <p>11 property. It was the \$4.2 million property in</p> <p>12 the Time Warner Center and they chose not to</p> <p>13 move forward.</p> <p>14 Q. Before you called Fritz, did you</p> <p>15 think about anything that -- withdrawn.</p> <p>16 So you didn't see a reason why they</p> <p>17 couldn't perform the process of starting a</p> <p>18 1031 exchange?</p> <p>19 MR. SEIDEN: Objection to form.</p> <p>20 A. Apparently not, because I confirmed</p> <p>21 it with Fritz, who's amazing, at NYDEC and he</p> <p>22 does many 1031s.</p> <p>23 Q. So you relied upon what he told</p> <p>24 you?</p> <p>25 A. He's an expert. He's amazing. To</p>	<p style="text-align: right;">90</p> <p>1 J. Wechsler</p> <p>2 this day, he's amazing.</p> <p>3 Q. Did you make any -- did you make</p> <p>4 your own independent determination about</p> <p>5 whether the Naftalis and the trust could</p> <p>6 proceed to utilize a 1031 exchange?</p> <p>7 A. I reviewed the whole situation with</p> <p>8 Fritz at NYDEC and I went through it in detail</p> <p>9 with him and he said -- I slipped out of the</p> <p>10 closing to explain it to him and he said yes,</p> <p>11 I could do it.</p> <p>12 So he got me the forms. I think it</p> <p>13 was Robert maybe in his office. It was either</p> <p>14 Robert or Fritz, but he sent me the forms and</p> <p>15 I got the Naftalis to sign everything that</p> <p>16 day. I had George Bunn sign the exchange form</p> <p>17 because you need the purchaser to sign the</p> <p>18 form.</p> <p>19 So George had a power of attorney</p> <p>20 for his client. We gave him back the checks,</p> <p>21 he gave me new checks. And we had George</p> <p>22 sign, George Bunn sign the form. And</p> <p>23 everything was done on the 10th, the date of</p> <p>24 the closing.</p> <p>25 But again it's irrelevant because</p>
<p style="text-align: right;">91</p> <p>1 J. Wechsler</p> <p>2 the Naftalis decided not to move forward in a</p> <p>3 timely manner. They chose not to do the 1031</p> <p>4 unilaterally on their own.</p> <p>5 Q. Why did you call Fritz? Why did</p> <p>6 you call NYDEC?</p> <p>7 A. Because they are great at doing</p> <p>8 1031 exchanges.</p> <p>9 Q. You had worked with them in the</p> <p>10 past prior to the closing in October 2014?</p> <p>11 A. Yes.</p> <p>12 Q. How many times did you work with</p> <p>13 them in the past, prior to this date?</p> <p>14 A. Numerous times.</p> <p>15 Q. More than five?</p> <p>16 A. I don't recall the number, but</p> <p>17 numerous times.</p> <p>18 Q. More than ten?</p> <p>19 A. I just said I don't recall the</p> <p>20 number. Don't pigeonhole me.</p> <p>21 Q. So you didn't think to call any</p> <p>22 other 1031 exchange companies?</p> <p>23 A. They are an expert in the field.</p> <p>24 Q. So no?</p> <p>25 A. The answer is "no."</p>	<p style="text-align: right;">92</p> <p>1 J. Wechsler</p> <p>2 Q. Have you ever received a referral</p> <p>3 fee from NYDEC for referring business to them?</p> <p>4 A. Once many years ago, a few hundred</p> <p>5 dollars. I have done work with NYDEC before</p> <p>6 and after this transaction and no other</p> <p>7 referral fee. It was a one-time thing, a few</p> <p>8 hundred dollars, that was it.</p> <p>9 Q. Did you expect a referral fee on</p> <p>10 this transaction?</p> <p>11 A. No, of course not.</p> <p>12 Q. You testified earlier that you</p> <p>13 stepped outside of the room where the closing</p> <p>14 was taking place to call Fritz, correct?</p> <p>15 A. Yes.</p> <p>16 Q. What did you ask him on your call?</p> <p>17 A. What I already told you.</p> <p>18 Q. How did you start the call?</p> <p>19 A. "Hi." He knows me.</p> <p>20 Q. He knows you on a first name basis?</p> <p>21 A. Yes.</p> <p>22 Q. Who else was on the phone call?</p> <p>23 A. It would have been myself and</p> <p>24 Fritz.</p> <p>25 Q. Anybody else?</p>

23 (Pages 89 to 92)

<p style="text-align: right;">93</p> <p>1 J. Wechsler</p> <p>2 A. No.</p> <p>3 Q. Was Rob on the call?</p> <p>4 A. No.</p> <p>5 Q. Did Fritz ask you for any</p> <p>6 information during your phone call?</p> <p>7 A. Yes. We exchanged a lot of</p> <p>8 information.</p> <p>9 Q. What information did you exchange?</p> <p>10 A. I told him the whole situation with</p> <p>11 the contract, that we are sitting at a closing</p> <p>12 table, the sale was in process, the closing</p> <p>13 was occurring. I told him the whole thing of</p> <p>14 paying off a lender. You know, I told him, "I</p> <p>15 have the clients sitting here." I told him</p> <p>16 it's a trust. I went through everything with</p> <p>17 him.</p> <p>18 I had to send him copies of the</p> <p>19 documents. So I'm sitting in Corcoran's</p> <p>20 office, that was Joseph's office. So I don't</p> <p>21 recall if I asked, and I believe I did quite</p> <p>22 possibly but I don't recall exactly, but I</p> <p>23 probably would have had Joseph just scan</p> <p>24 documents or just off of my phone I sent him</p> <p>25 documents I had saved so he could see it, so</p>	<p style="text-align: right;">94</p> <p>1 J. Wechsler</p> <p>2 he could confirm whether or not I could do it.</p> <p>3 Q. Did you tell him the trustees were</p> <p>4 foreigners?</p> <p>5 MR. SEIDEN: Objection to form.</p> <p>6 A. I gave him the information that I</p> <p>7 had.</p> <p>8 Q. Did you tell him that checks had</p> <p>9 been cut into -- payable to the Edtom Trust?</p> <p>10 A. Correct.</p> <p>11 Q. You did tell him that?</p> <p>12 A. Yes.</p> <p>13 Q. And Fritz told you that the</p> <p>14 Naftalis could still perform a valid 1031</p> <p>15 exchange?</p> <p>16 MR. FERLAZZO: Objection.</p> <p>17 A. That was my understanding and</p> <p>18 belief, correct.</p> <p>19 Q. And you agreed with him?</p> <p>20 A. Restate your question.</p> <p>21 Q. Did you agree with -- withdrawn.</p> <p>22 A. Okay.</p> <p>23 Q. After speaking to him you agreed --</p> <p>24 you agreed that the Naftalis could perform a</p> <p>25 valid 1031 exchange?</p>
<p style="text-align: right;">95</p> <p>1 J. Wechsler</p> <p>2 MR. SEIDEN: Objection to form.</p> <p>3 A. When you say "him"?</p> <p>4 Q. Fritz.</p> <p>5 A. Correct, yes.</p> <p>6 Q. How did you end the call?</p> <p>7 A. That there was probably a few calls</p> <p>8 because then I spoke to Naftali. They</p> <p>9 confirmed they wanted to move forward. So I</p> <p>10 probably -- probably would have called Fritz</p> <p>11 back possibly. There might have been another</p> <p>12 call to say, "Yes, we will go forward," and</p> <p>13 that I need the forms to do the 1031 that are</p> <p>14 in my closing package which you have.</p> <p>15 Q. So you told the Naftalis about your</p> <p>16 initial conversation with Fritz?</p> <p>17 A. Of course.</p> <p>18 Q. And they told you they wanted to go</p> <p>19 forward with the 1031 exchange?</p> <p>20 A. Yes.</p> <p>21 Q. Did you -- did you -- after these</p> <p>22 conversations, did you discuss performing a</p> <p>23 1031 exchange with the title closer?</p> <p>24 I'll withdraw.</p> <p>25 Did you inform the buyer's counsel</p>	<p style="text-align: right;">96</p> <p>1 J. Wechsler</p> <p>2 that the Naftalis wanted to proceed with a</p> <p>3 1031 exchange at the closing?</p> <p>4 A. With George Bunn, yes.</p> <p>5 Q. You did? You told him?</p> <p>6 A. Yes, "him" being George Bunn who</p> <p>7 was the purchaser's attorney.</p> <p>8 Q. Did he have anything to say in</p> <p>9 response?</p> <p>10 A. He was super-nice. He was very</p> <p>11 helpful, "whatever you need to get done." And</p> <p>12 he was willing to sign the 1031 exchange</p> <p>13 forms, switch out checks, whatever we needed</p> <p>14 to do.</p> <p>15 MR. COHEN: I would like to</p> <p>16 introduce the next exhibit which is being</p> <p>17 marked as Plaintiffs' G. It starts with</p> <p>18 Bates stamp number Naftali-00011 and ends</p> <p>19 on Naftali-00017.</p> <p>20 (Plaintiffs' Exhibit G, pages Bates</p> <p>21 stamped NAFTALI-00011 to NAFTALI-00017,</p> <p>22 marked for identification, as of this date.)</p> <p>23 Q. If you would review the document</p> <p>24 that's in front of you and let me know when</p> <p>25 you're ready for questions, Mr. Wechsler.</p>

24 (Pages 93 to 96)

<p style="text-align: right;">97</p> <p>1 J. Wechsler</p> <p>2 (Recess taken 12:10 p.m.)</p> <p>3 (Resumed at 12:27 p.m.)</p> <p>4 Q. Mr. Wechsler, have you reviewed</p> <p>5 Plaintiffs' G?</p> <p>6 A. Yes. And there's a duplicate check</p> <p>7 I just want you to note on the record, on</p> <p>8 page 14 and page 17. It's photocopied twice.</p> <p>9 Q. Do you recognize these checks?</p> <p>10 A. Yes.</p> <p>11 Q. What do you recognize these checks</p> <p>12 to be?</p> <p>13 A. These were checks -- contract</p> <p>14 deposit check was the first one on page</p> <p>15 Naftali-00011. There was a contract deposit</p> <p>16 for 390.</p> <p>17 Q. Were these checks that were issued</p> <p>18 at the closing?</p> <p>19 A. Yes.</p> <p>20 The first one was not, that's why I</p> <p>21 referenced that.</p> <p>22 Q. Okay. So the closing ended,</p> <p>23 transaction was closed. Everyone left the</p> <p>24 closing table?</p> <p>25 A. Yes, but you are missing checks.</p>	<p style="text-align: right;">98</p> <p>1 J. Wechsler</p> <p>2 Q. We are missing checks?</p> <p>3 A. You don't have all the checks here.</p> <p>4 Q. What checks are missing?</p> <p>5 A. The checks to NYDEC.</p> <p>6 Q. The checks to NYDEC were issued at</p> <p>7 the closing table?</p> <p>8 A. They were issued subsequent to the</p> <p>9 closing table because then we adjourned so we</p> <p>10 could finish the 1031 exchange that I</p> <p>11 explained to you earlier because we needed to</p> <p>12 get the forms.</p> <p>13 So we adjourned, and we needed to</p> <p>14 get the forms so I could have George sign it</p> <p>15 so I can have the client sign them and then to</p> <p>16 exchange the checks.</p> <p>17 Q. You say that the closing was</p> <p>18 adjourned. Did you take a copy of the deed</p> <p>19 from the closing table?</p> <p>20 A. No. The title closer held it in</p> <p>21 escrow.</p> <p>22 Q. Did you have an escrow agreement</p> <p>23 with the title closer?</p> <p>24 A. No. It's just a verbal</p> <p>25 understanding, holding it.</p>
<p style="text-align: right;">99</p> <p>1 J. Wechsler</p> <p>2 Q. Did you issue any e-mails</p> <p>3 adjourning the closing?</p> <p>4 A. No. We're all sitting there. It</p> <p>5 was a little more informal than what you're</p> <p>6 saying. No.</p> <p>7 Q. Is there any document to evidence</p> <p>8 an adjournment of the closing?</p> <p>9 A. The evidence is that we have checks</p> <p>10 that you don't have in this package that your</p> <p>11 firm has and it was part of my closing package</p> <p>12 and your firm has it. And you've kept those</p> <p>13 out. So similar to your Exhibit B, where you</p> <p>14 put in extra W-7s that were not part of that</p> <p>15 e-mail, now you're leaving checks out on this</p> <p>16 attachment.</p> <p>17 Q. Did the Naftalis leave with checks</p> <p>18 in their hand from the closing table?</p> <p>19 A. Probably yes, they left with the</p> <p>20 checks, and then I got them back when we got</p> <p>21 the forms to sign for NYDEC.</p> <p>22 Q. Did you see them leave with the</p> <p>23 checks in their hand?</p> <p>24 A. I don't recall, but most likely</p> <p>25 yes, probably they left the checks -- they</p>	<p style="text-align: right;">100</p> <p>1 J. Wechsler</p> <p>2 took the checks probably and gave them back to</p> <p>3 me.</p> <p>4 Q. Do you know where they went after</p> <p>5 the closing?</p> <p>6 A. I have no idea.</p> <p>7 Q. Did they leave with Joseph</p> <p>8 Taplitzky?</p> <p>9 A. I doubt it. It was his office so I</p> <p>10 don't think he left with them, but possibly.</p> <p>11 Who knows? I know that they have a close</p> <p>12 relationship, or had.</p> <p>13 Q. What did you do when you left the</p> <p>14 closing? Where did you go?</p> <p>15 A. I went back to my office.</p> <p>16 MR. COHEN: If I could take back</p> <p>17 Plaintiffs' G from you, please.</p> <p>18 (Witness handing document.)</p> <p>19 Q. When you go back to your office</p> <p>20 after the closing, did you copy the checks</p> <p>21 from the closing? Did you make copies of the</p> <p>22 checks?</p> <p>23 A. The checks in your last exhibit?</p> <p>24 Q. No, I'm just saying --</p> <p>25 What did you do when you got back</p>

<p style="text-align: right;">265</p> <p>1 J. Wechsler</p> <p>2 Q. When you refer to doing</p> <p>3 transactions with NYDEC, are you referring to</p> <p>4 1031 exchanges?</p> <p>5 A. I apologize. Yes, 1031 exchanges.</p> <p>6 My client was the seller of a transaction and</p> <p>7 different transactions, and we would park the</p> <p>8 money with NYDEC.</p> <p>9 Q. Can you approximate how many 1031</p> <p>10 exchange transactions you have done involving</p> <p>11 NYDEC?</p> <p>12 A. NYDEC? No. I wouldn't know</p> <p>13 because I've been doing real estate</p> <p>14 transactions since 1998, so I can't give you a</p> <p>15 number.</p> <p>16 Q. Did the Naftalis ever tell you that</p> <p>17 Mr. Taplitzky was their agent?</p> <p>18 A. Did they use the word "agent"?</p> <p>19 They referred to him as "just go to Joseph</p> <p>20 Taplitzky to get" what he needed all the time.</p> <p>21 So they always used him as the point person.</p> <p>22 Q. I believe you testified earlier</p> <p>23 that Mr. Taplitzky told you he would get you</p> <p>24 the tax identification number for the trust</p> <p>25 and you did not get it and you saw that as a</p>	<p style="text-align: right;">266</p> <p>1 J. Wechsler</p> <p>2 problem; is that right?</p> <p>3 A. Correct.</p> <p>4 Q. When did you first see that as a</p> <p>5 problem?</p> <p>6 A. Early on I was asking for taxpayer</p> <p>7 ID numbers and that was today I think in</p> <p>8 Exhibit B, I think.</p> <p>9 And so that was at the very</p> <p>10 beginning, before the contract was even</p> <p>11 written, I was asking for taxpayer ID numbers.</p> <p>12 And in Exhibit B, that's where Joseph said</p> <p>13 that he would be providing it to me.</p> <p>14 Q. But do you recall the general time</p> <p>15 frame when you thought the fact that you were</p> <p>16 not being provided with a tax identification</p> <p>17 number was a problem?</p> <p>18 A. Correct. And then basically they</p> <p>19 kept saying they would have it for the closing</p> <p>20 and I didn't get it. So then when they had</p> <p>21 prepared -- when I had the abstract company</p> <p>22 prepare the ACRIS docs, they would prepare it</p> <p>23 just with all 9s and they would prepare it</p> <p>24 subsequently when they would give me the ID</p> <p>25 number which I thought they had.</p>
<p style="text-align: right;">267</p> <p>1 J. Wechsler</p> <p>2 Q. I believe you testified earlier</p> <p>3 that you thought the Naftalis were using the</p> <p>4 other unit, I think it was 43-U, as a</p> <p>5 residence; is that right?</p> <p>6 A. In the same building, correct, yes.</p> <p>7 Q. Do you recall how you came to have</p> <p>8 that understanding?</p> <p>9 A. Through Joseph and also through</p> <p>10 Naftalis, because they said that they were</p> <p>11 using the unit.</p> <p>12 Q. Was that an understanding you had</p> <p>13 prior to the closing?</p> <p>14 A. Correct.</p> <p>15 Q. Do you recall if there came a point</p> <p>16 when you learned that they were not using unit</p> <p>17 43-U as a residence?</p> <p>18 A. Yes.</p> <p>19 Q. When was that? And again, general</p> <p>20 time frame is fine if you can't remember</p> <p>21 specifics.</p> <p>22 A. Ora and Roni Naftali's depositions.</p> <p>23 That's when I learned that that was used as</p> <p>24 rental property. And also then, and which was</p> <p>25 supported by the tax returns that we got from</p>	<p style="text-align: right;">268</p> <p>1 J. Wechsler</p> <p>2 them, which basically when I read through the</p> <p>3 tax returns which we got just prior to the</p> <p>4 depositions.</p> <p>5 And if you read it, they struck out</p> <p>6 a lot of things, but there was 43-UI in there</p> <p>7 as rental income, and that was the first time</p> <p>8 that I saw 43-U was rental property, was the</p> <p>9 tax returns and they confirmed that during the</p> <p>10 depositions.</p> <p>11 So it was the tax returns which we</p> <p>12 got, I don't know, maybe a week prior</p> <p>13 approximately to their depositions.</p> <p>14 Q. Now, again, I believe you testified</p> <p>15 earlier that at the closing you stepped out to</p> <p>16 call Mr. Trinklein. Is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall approximately how</p> <p>19 long that call took?</p> <p>20 A. Seven minutes. I explained the</p> <p>21 whole situation to him, which I mentioned</p> <p>22 earlier about that we are in the process of a</p> <p>23 closing, can this be done? And I walked him</p> <p>24 through everything. So --</p> <p>25 Q. When you say you walked him through</p>

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<p style="text-align: right;">269</p> <p>1 J. Wechsler</p> <p>2 everything, what do you mean?</p> <p>3 A. That we are physically sitting at a</p> <p>4 closing, that the seller is a trust.</p> <p>5 So I explained those items to him.</p> <p>6 I told him it's a condo. I told him -- I gave</p> <p>7 him numbers. So I knew what I was talking</p> <p>8 about, that I was paying off a mortgage at the</p> <p>9 closing table. So he had some sort of idea of</p> <p>10 how much I was going to be transferring in to</p> <p>11 do a 1031 exchange.</p> <p>12 Q. Do you recall anything else you</p> <p>13 told him?</p> <p>14 A. No. What we talked about was about</p> <p>15 getting the documents and getting everything</p> <p>16 done for October 10th.</p> <p>17 Q. Do you recall any questions he</p> <p>18 asked you?</p> <p>19 A. Not specific questions. We were</p> <p>20 just -- we went through the whole transaction</p> <p>21 and where I was, and that I was at the closing</p> <p>22 and they decided that.</p> <p>23 Q. Prior to your stepping out at the</p> <p>24 closing to call Mr. Trinklein, had the checks</p> <p>25 been cut?</p>	<p style="text-align: right;">270</p> <p>1 J. Wechsler</p> <p>2 A. The answer would be yes, because</p> <p>3 basically they were bank checks and George's</p> <p>4 check was actually dated on October 9th, and</p> <p>5 he went to Citibank for his escrow account.</p> <p>6 And mine was probably dated the 10th because I</p> <p>7 usually try and do it the same day. But since</p> <p>8 it was a morning closing, I might have done it</p> <p>9 on the 9th.</p> <p>10 Q. Had any of the checks that were</p> <p>11 payable to the trust been handed over to the</p> <p>12 Naftalis prior to your leaving to make the</p> <p>13 call to Mr. Trinklein?</p> <p>14 A. They were doubtful prior to me</p> <p>15 making the phone call because basically the</p> <p>16 checks were sitting on the table and the title</p> <p>17 company -- title closer would have had to make</p> <p>18 copies. And the closing wasn't complete, so I</p> <p>19 wouldn't have handed checks to a client until</p> <p>20 closing is -- you know, like toward the end.</p> <p>21 Q. During your call with Mr. Trinklein</p> <p>22 when you had stepped out at the closing, did</p> <p>23 you tell him the checks had been cut?</p> <p>24 A. Yes. So I had to disclose</p> <p>25 everything to him.</p>
<p style="text-align: right;">271</p> <p>1 J. Wechsler</p> <p>2 So I mean we were working on the</p> <p>3 same team to try and facilitate a 1031 for a</p> <p>4 client. So he has to know everything. He has</p> <p>5 to know I'm at the closing, he has to know I</p> <p>6 have the deed, there is checks on the table.</p> <p>7 I have to tell him everything.</p> <p>8 Q. Did you tell him the checks were</p> <p>9 payable to do the trust?</p> <p>10 A. I don't know if I said trust or</p> <p>11 client, but yeah.</p> <p>12 Q. What, if anything, did he say in</p> <p>13 response to that?</p> <p>14 A. We talked about exchanging the</p> <p>15 checks.</p> <p>16 Q. I believe you think you had other</p> <p>17 calls with Mr. Trinklein during the course of</p> <p>18 the day on October 10, 2014.</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall approximately how</p> <p>21 many?</p> <p>22 A. No. It was at least one call,</p> <p>23 maybe two calls, and it might have been with</p> <p>24 him or with Rob at his office.</p> <p>25 Q. Do you recall what was discussed</p>	<p style="text-align: right;">272</p> <p>1 J. Wechsler</p> <p>2 during those calls?</p> <p>3 A. Obtaining the documents to do a</p> <p>4 1031 exchange and getting them executed that</p> <p>5 day. That was pretty much it.</p> <p>6 Q. On the 10th did you provide any</p> <p>7 documents to Mr. Trinklein or anyone else at</p> <p>8 NYDEC?</p> <p>9 A. They probably would have been</p> <p>10 faxed. Or, I'm sorry, faxed or e-mails from</p> <p>11 my office. But the originals were going to be</p> <p>12 FedEx'd.</p> <p>13 MR. FERLAZZO: Let's mark this as</p> <p>14 Defendants' Exhibit 33, please.</p> <p>15 (Defendants' Exhibit 33, pages Bates</p> <p>16 stamped JWL000905 to JWL000922, marked for</p> <p>17 identification, as of this date.)</p> <p>18 Q. Mr. Wechsler, I ask you to take a</p> <p>19 look at what we have marked as Defendants'</p> <p>20 Exhibit 33. It is an e-mail dated October 10,</p> <p>21 2014 with attachment. The document bears the</p> <p>22 Bates stamps JWL-905 to -922.</p> <p>23 Could you just let me know after</p> <p>24 you've had a chance to take a look at it.</p> <p>25 A. Ready.</p>

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